

PUBLIC MEETING
June 10, 2010
MINUTES

Chairman Mike Murray called the meeting to order at 9 a.m. Commissioners Derek Brown and Commissioner Andy Hunthausen were present. Others attending all or a portion of the meeting included Eric Bryson, Kelly Blake, Frank Rives, Rebecca Shaw, Dean Retz, Paul Stahl, Katie Jerstad, Michael McHugh, Marni Bentley, Mark Simonich, Jack Walsh, Aaron Helfert, Don Hulett, Sarah Bauer, and Rita Cortright, Recording Secretary.

Pledge of Allegiance. Everyone recited the Pledge.

Consent Action Items. (Eric Bryson)

a. Vendor Claims Report for the week of June 7, 2010. (Marni Bentley)

Eric Bryson reported on the consent action item and recommended approval.

No public comments were received.

Commissioner Hunthausen moved to approve the consent action item and authorized the Chair to sign. Commissioner Brown seconded the motion. The motion carried 3-0.

Request for Extension of Preliminary Plat for Wheat Ridge Estates Phase III Major Subdivision to May 11, 2011. (Applicant: Aaron Helfert) (Planner: Michael McHugh) (Cont'd. from 6/3/10) A major subdivision creating 80 lots for single-family dwellings located in the NW ½ Sec. 36 T10N R2W.

Michael McHugh reported that the applicant submitted a letter dated May 6, 2010 requesting an extension for Phase III for another 40 lots. The original approval was approved in May of 2006. A letter dated June 3 from Mr. Helfert and an agreement drafted by Deputy County Attorney Jeff Sealey extending the approval time for two years was presented to the commission.

Commissioner Brown asked for a justification and the method for the extension request; a schedule of completion of improvements; and a better understanding of whether this proposal was a phased project or separate subdivisions.

Michael McHugh outlined the extension process. The only necessary improvements were the storm water drainage improvements on Phase III and the internal roads within those 40 lots.

Commissioner Brown moved to postpone the extension request to allow legal staff to do some research. The applicant agreed to the postponement. Commissioner Hunthausen seconded the motion. Commissioner Hunthausen stated that the proposed subdivision was approved under the standards from 2006. It was not clear if the

applicant has requested a one or two year extension. The commission encouraged consistency and that current standards be followed. He would like this project completed within a couple of years.

The motion to postpone a decision until Tuesday carried 3-0.

Amended Subdivision Improvements Agreement for Panoramic Meadows Subdivision. (Developers: Curtis Farm, Inc. and Castle Reef Development LLC) (Planner: Rebecca Shaw) The Developer seeks permission to defer construction of certain improvements for the Panoramic Meadows Subdivision until after approval of the final plat pursuant to Sec. 76-3-507, MCA, and to provide a bond or other reasonable security securing the construction of those Improvements. To secure the performance of obligations under this Agreement, the Developer shall provide the County, on or before the effective date of this Agreement, security in the amount of \$556,160.96 in the form of an irrevocable letter of credit. The security shall expire not sooner than July 15, 2011.

Rebecca Shaw reported that the applicants have requested an extension to complete some improvements as outlined in the amended subdivision improvements agreement.

Dean Retz gave an update to the commission on the status of the improvements. The subdivision has been final platted. The applicant has a Memorandum of Understanding with the Department of Transportation for future improvements. Current projects include fencing the irrigation ditch; completion of mailbox banks; seeding the roadway ditches; and the addition of three more inches of gravel to the upper road.

No public comments were received.

Commissioner Brown moved to approve the Amended Subdivision Improvements Agreement and authorized the Chair to sign. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Public Hearing. Proposed Subsequent Minor Subdivision, Amended Plat of Tract 4, Big Bend Subdivision. (Applicants: Donald and Barbara Hulett) (Planner: Frank Rives) (Cont'd. from 6/8/10) The applicant's proposal would change the permitted use of Tract 4 of Big Bend Subdivision from open space/agricultural use to residential use. The applicant has requested lifting two restrictions placed by the original subdivision approval. Those restrictions are: 1) a no access restriction placed to prohibit access to York Road, and 2) a no building restriction on Tract 4. The size and boundaries of the existing 21.71 acre tract would not be changed. The lot would be developed with one single-family dwelling, individual, on-site wastewater treatment systems, and utilities. Access to the lot would be from an approach onto York Road. There is no parkland requirement for this proposal because the tract is over five acres. The applicant has requested a variance from fire protection improvements and to waive fire protection water supply requirements.

Frank Rives met with the Hulett's and their representative, Ms. Bauer, to review the conditions. Previous minutes do not explain a no access restriction was placed on the property. The county requires a no access restriction along most major collectors as a public health and safety issue. Without objection Commissioner Murray incorporated the minutes of July 27, August 17 and August 31, 1999 into this hearing record.

Public comment.

Don Hulett, 5850 York Road, stated he does not intend to develop the property. He would like the restrictions lifted so he can sell it.

Sarah Bauer, Windermere Real Estate, 910 North Last Chance Gulch. She informed Mr. Hulett that she could not sell this property because of the restrictions on the property. She supported granting the variance.

Commissioner Hunthausen stated that the commissioners were required to look at fire protection issues when reviewing new subdivisions.

Hearing no other comments, the public hearing was closed.

Variance. Commissioner Brown moved to approve the variance to waive the fire protection improvements. Commissioner Hunthausen seconded the motion. The motion carried 3-0.

Commissioner Hunthausen moved to approve the proposed minor subdivision, including removal of the no access restriction and the no build restrictions placed on the property. Commissioner Brown seconded the motion.

Amendments to Conditions of Approval.

Condition 3, Building Envelopes. Commissioner Brown moved to delete condition 3. All of the restrictions on these building envelopes are the same restrictions that apply to the entire property. There is no reason to create additional building envelopes. Commissioner Hunthausen seconded the motion.

Commissioner Brown modified his motion with agreement of the second. Condition 3 shall read, "construction on slopes greater than 30 degrees would be prohibited on the site. The building envelope(s) shall also avoid areas of high hazard potential, including the drainage easement and areas of loose shale deposits." The language would apply to the entire property. Commissioner Hunthausen seconded the motion for discussion.

Commissioner Murray and Commissioner Hunthausen voted no. The motion died for lack of majority.

Condition 4, Vegetation Management Plan. Commissioner Brown moved to delete condition 6. The work has already been done through previous subdividing of the property. Commissioner Hunthausen seconded the motion for discussion.

Commissioner Murray and Commissioner Hunthausen voted no. The motion died for lack of a majority.

Condition 8.b, No-Access Restriction. Commissioner Brown moved to remove 8.b. It cannot be approached without an MDOT-approved permit. Commissioner Murray seconded the motion for discussion. The motion carried 3-0.

Condition 8.n, Notification that all dwelling units within the subdivision should be constructed to specifications which meet or exceed equivalent provisions in the applicable state building code for Seismic Zone 3. Commissioner Brown moved to delete condition 8.n. Seismic Zone 3 is not recognized in the building code. Commissioner Hunthausen seconded the motion for discussion stating it is a recommendation. The motion died for lack of a majority.

Condition 8.s, Notification that the dwelling unit on Tract 4 should be constructed to meet or exceed equivalent provisions of the applicable state fire code. Commissioner Brown moved to delete condition 8.s. State fire codes are not applicable to building codes. Commissioner Hunthausen seconded the motion for discussion stating it is a recommendation. The motion died for lack of a majority.

The motion to approve the subdivision proposal subject to 12 conditions as amended carried 3-0.

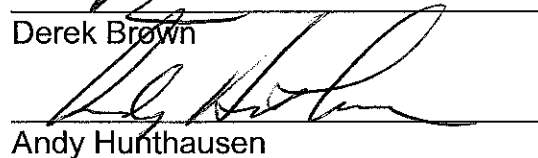
Public comments on any public matter within the jurisdiction of the Commission that is not on the agenda above. None.

There was no other business, the meeting adjourned at 10:12 a.m.

LEWIS AND CLARK COUNTY
BOARD OF COMMISSIONERS


Michael A. Murray, Chairman


Derek Brown


Andy Hunthausen

ATTEST:


Paulette DeHart, Clerk of the Board